

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**UNITED STATES OF AMERICA,
Plaintiff,**

v.

Criminal Action No. 1:15-cr-4

**FRANKLIN S. COTTRELL, JR.,
Defendant.**

REPORT AND RECOMMENDATION

On January 6, 2015, the Grand Jury returned a two-count Indictment against Defendant, charging him with dealing in explosives without a license and unlawful storage of explosives. Defendant appeared via summons for an initial appearance and arraignment on January 26, 2015. At that time, he was released pursuant to an Order Setting Conditions of Release.

On March 20, 2015, Defendant appeared before the undersigned for a change of plea hearing, and pleaded guilty to Count Two of the Indictment, which charged him with unlawful storage of explosives, a misdemeanor, in violation of 18 U.S.C. §§ 842(j) and 844(b)(1). Defendant consented to proceeding before the undersigned and waived his right to enter a guilty plea before and be sentenced by a United States District Judge. (Docket No. 19.) He entered a plea of guilty to Count Two. The parties waived preparation of a pre-sentence report and wished for sentencing to occur that day. The Court imposed a sentence of five (5) years' probation, no fine, the \$25.00 special assessment, and forfeiture of \$741.00 in proceeds. The Judgment and Commitment Order was entered on March 24, 2015. (Docket No. 22.)

RECOMMENDATION

For the foregoing reasons, the undersigned recommends that Count One of the Indictment be **DISMISSED**.

Any party may, within fourteen (14) days after being served with a copy of this Report and Recommendation, file with the Clerk of the Court written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection. A copy of such objections should also be submitted to the Honorable Irene M. Keeley, United States District Judge. Failure to timely file objections to the Report and Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Report and Recommendation. 28 U.S.C. § 636(b)(1); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); Thomas v. Arn, 474 U.S. 140 (1985).

The Clerk of the Court is directed to provide a copy of this Report and Recommendation to counsel of record.

DATED: March 24, 2015

John S. Kaull

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE